

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

NDF1, LLC,

Plaintiff,

– against –

DALTON CUNNINGHAM; QUEENS
CAPITAL HOLDINGS, LLC;
CONSOLIDATED EDISON COMPANY OF
NEW YORK; CITY OF NEW YORK
ENVIRONMENTAL CONTROL BOARD;
NEW YORK CITY DEPARTMENT OF
FINANCE; and MARCIA GRAHAM,¹

Defendants.

ORDER

24-cv-00002 (NCM) (JAM)

NATASHA C. MERLE, United States District Judge:

This Court has received the Report and Recommendation (“R&R”) on the instant case dated August 26, 2024, from the Honorable Joseph A. Marutollo, United States Magistrate Judge. No objections have been filed.

The Court reviews “*de novo* any part of the magistrate judge’s disposition that has been properly objected to.” Fed. R. Civ. P. 72(b); *see also Park v. Kim*, No. 20-cv-02636, 2022 WL 3643966, at *2 (E.D.N.Y. Aug. 24, 2022), *aff’d*, 91 F.4th 610 (2d Cir. 2024). Where no timely objections have been filed, “the district court need only satisfy itself that there is no clear error on the face of the record.” *Finley v. Trans Union, Experian*,

¹ On September 30, 2024, Judge Marutollo granted plaintiff’s Motion to Join Additional Parties and to Extend Time to Serve Additional Parties, amended the case caption, and instructed plaintiff to serve the new parties with an amended complaint. *See* Sept. 30, 2024 ECF Min. Entry; *see also* Mot. for Joinder of Additional Parties & Extend Time, ECF No. 53. For purposes of this order, the Court lists the defendants named in this action as of August 26, 2024, the date Judge Marutollo filed his Report and Recommendation.

Equifax, No. 17-cv-00371, 2017 WL 4838764, at *1 (E.D.N.Y. Oct. 24, 2017) (quoting *Est. of Ellington ex rel. Ellington v. Harbrew Imps. Ltd.*, 812 F. Supp. 2d 186, 189 (E.D.N.Y. 2011)).

Having reviewed the record, the Court finds no clear error. Accordingly, Judge Marutollo's R&R is fully adopted as the opinion of the Court pursuant to 28 U.S.C. § 636(b)(1). Plaintiff's Motion for Default Judgment, ECF No. 43, is **DENIED** without prejudice. Since Judge Marutollo issued his R&R, plaintiff has filed an amended complaint, *see* Am. Compl., ECF No. 55; and moved to drop defendant New York City Department of Finance ("DOF") pursuant to Rule 21 of the Federal Rules of Civil Procedure, *see* Mot. to Drop Def. DOF, ECF No. 59. Nevertheless, in light of the R&R, plaintiff is permitted to amend its complaint within twenty-one (21) days of this order, to the extent still necessary, to plausibly allege the nominal liability of defendants DOF and Marcia Graham.

SO ORDERED.

/s/ Natasha C. Merle
NATASHA C. MERLE
United States District Judge

Dated: October 17, 2024
Brooklyn, New York